

1 BARRETT S. LITT, SB 45527
2 RONALD O. KAYE, SBN 145051
3 LINDSAY BATTLES SBN 262862
4 Email: blitt@kmbllaw.com
5 Email: rok@kmbllaw.com
6 Email: lbattles@kmbllaw.com
7 KAYE, McLANE, BEDNARSKI & LITT, LLP
8 975 East Green St.
9 Pasadena, California 91106
10 Tel: (626) 844-7660
11 Fax: (626) 844-7670

12 NICK BRUSTIN, *pro hac vice**
13 ANNA BENVENUTTI HOFFMANN, *pro hac vice**
14 KATIE MCCARTHY, *pro hac vice**
15 Email: anna@nsbcivilrights.com
16 NEUFELD, SCHECK & BRUSTIN, LLP
17 99 Hudson Street, 8th Floor
18 New York, NY 10012
19 Phone No. (212) 965-9081
20 Fax No. (212) 965-9084
21 *Awaiting admission *pro hac vice*

22 Attorneys for Plaintiff CRAIG COLEY

23 **UNITED STATES DISTRICT COURT**
24 **CENTRAL DISTRICT OF CALIFORNIA**

25 CRAIG COLEY,

26 Plaintiff,

27 vs.

28 VENTURA COUNTY; WILLIAM
MAXWELL; FRED JONES; KEVIN
McGEE; WILLIAM HANEY, SR.;
JAMES HENDERSON; GLEN
KITZMANN; EDWARD VASQUEZ;
AL JALATY; NORMA FORT; TOM
KOTOWSKI; ROBERT KERR; GARY
SMITH; DEPUTY SCHWARTZ;
DEPUTY TAYLOR; SANDRA

CASE NO.

(1) 42 U.S.C. § 1983 CLAIM FOR
DEPRIVATION OF DUE PROCESS
OF LAW AND VIOLATION OF
RIGHT TO A FAIR TRIAL UNDER
THE FOURTEENTH
AMENDMENT

(2) 42 U.S.C. § 1983 CIVIL RIGHTS
CONSPIRACY CLAIM

(3) 42 U.S.C. § 1983 CLAIM
PURSUANT TO *BRADY*, *GARCIA*,
and *MOODY* FOR FAILURE TO
DISCLOSE MATERIAL
EXCULPATORY EVIDENCE

(4) 42 U.S.C. §1983 CLAIM FOR

VANNI; SHANIN SULLIVAN;
ROBERT RUBIN; DAN SHONEMAN;
AND DOES 1–10, INCLUSIVE,

Defendants.

**POST-TRIAL SUPPRESSION OF
EXCULPATORY EVIDENCE**

**(5) 42 U.S.C. § 1983 SUPERVISORY
LIABILITY CLAIM**

**(6) 42 U.S.C. §1983 *MONELL*
CLAIM FOR VIOLATIONS
ARISING FROM A
POLICY/CUSTOM OF FAILING
TO PRESERVE AND DISCLOSE
EXCULPATORY EVIDENCE,
FABRICATING EVIDENCE, AND
FAILING TO TRAIN AND
SUPERVISE REGARDING THE
PRESERVATION AND
DISCLOSURE OF EVIDENCE IN
HOMICIDE INVESTIGATIONS**

**(7) NEGLIGENT
SUPPRESSION/WITHHOLDING
OF EXCULPATORY EVIDENCE,
INCLUDING DNA EVIDENCE**

**(8) CALIFORNIA CODE § 815.2
CLAIM FOR RESPONDEAT
SUPERIOR AND VICARIOUS
LIABILITY INCLUDING FOR
NEGLIGENT SUPERVISION AND
TRAINING**

**(9) CALIFORNIA CODE § 52.1
CLAIM AGAINST INDIVIDUAL
DEFENDANTS**

**(10) CALIFORNIA CODE § 835.4
CLAIM AGAINST VENTURA
COUNTY**

DEMAND FOR JURY TRIAL.

I. INTRODUCTION

1. Craig Coley is an innocent man who spent nearly 39 years in prison for two heinous murders he did not commit. On November 22, 2017, after four decades of wrongful incarceration, Mr. Coley received an extraordinary pardon from California Governor Jerry Brown recognizing his actual innocence: “I grant this

1 pardon because Mr. Coley did not commit these crimes.” The Ventura County
2 District Attorney’s Office and the Simi Valley Police Department (“SVPD”)
3 similarly recognized, based on DNA testing, that Mr. Coley was innocent of the
4 underlying murders.
5

6 2. On November 11, 1978, Rhonda Wicht and her four-year-son, Donald
7 Wicht, were brutally murdered. SVPD Detective Robert Klamser (“Klamser”) was
8 assigned as the lead investigator. From the outset, Klamser was assisted in the
9 investigation by officials and employees from the Ventura County District
10 Attorney’s Office, the Ventura County Sheriff’s Department, and the Ventura
11 County Medical Examiner’s Officer (collectively, “Defendants”).
12

14 3. Shortly after arriving on the scene, SVPD officers interviewed witnesses
15 who reported hearing disturbances from the victims’ apartment beginning around
16 4:30 a.m. the night before. At that time, Mr. Coley was miles away at a Howard
17 Johnson restaurant unwinding with other employees after a shift. Despite having an
18 incontrovertible alibi—corroborated by multiple witnesses—Mr. Coley was arrested
19 on suspicion of committing these murders on the afternoon of November 11, 1978.
20

22 4. From the moment of his arrest, Mr. Coley maintained his innocence and
23 cooperated with Ventura County and Simi Valley employees, waiving his rights and
24 providing voluntary saliva and blood samples. Mr. Coley also consented to a search
25 of his apartment and his vehicle.
26
27
28

1 5. No physical or forensic evidence linking Mr. Coley to the crime was
2 discovered on his person, the clothing he had been seen wearing the night before, or
3 in his vehicle.

4
5 6. Between his airtight alibi and the utter lack of physical or forensic
6 evidence linking him to the crime, it quickly became apparent that Mr. Coley did not
7 commit these heinous murders.

8
9 7. But Klamser—a rogue officer with a history of setting up suspects—was
10 determined to implicate Mr. Coley in this crime. To that end, Klamser conspired
11 with Defendants to procure Mr. Coley’s wrongful conviction by engaging in
12 unconstitutional conduct, including but not limited to planting incriminating
13 evidence in Mr. Coley’s apartment, coercing and pressuring witnesses to change the
14 reported time of the crime from 4:30 a.m. to 5:30 a.m. to get around Mr. Coley’s
15 alibi, fabricating a false identification of Mr. Coley’s vehicle, destroying
16 exculpatory evidence, deliberately failing to investigate or preserve exculpatory
17 evidence, and engaging in other reckless investigatory misconduct.

18
19
20
21 8. Mr. Coley’s first trial in 1979 ended in a hung jury. Hundreds of
22 community members signed a petition protesting the investigation, and the judge
23 who presided over that trial stated he could not imagine a guilty verdict based on the
24 evidence he had seen.

25
26 9. But, on the basis of false representations and exculpatory evidence
27 withheld by Defendants and others, the Ventura County District Attorney’s Office
28

1 remained committed to the prosecution. At Mr. Coley's second trial, he was
2 wrongly convicted of the Wicht murders and subsequently sentenced to life
3 imprisonment without parole.
4

5 10. For the next four decades, Mr. Coley continued to proclaim his
6 innocence and fight for his freedom. In 1989, decorated SVPD Detective Michael
7 Bender—an officer with no preexisting ties to Mr. Coley—became convinced based
8 on his review of the case that Mr. Coley was innocent. Between 1989 and 2017,
9 Bender repeatedly informed Ventura County officials and employees of the
10 evidence of Mr. Coley's innocence but Ventura County officials and employees not
11 only took no action to assist Mr. Coley, they made false representations that
12 substantially prolonged his wrongful incarceration.
13
14

15 11. In 1993, Klamser was fired from SVPD for having framed a fellow
16 officer using the same unconstitutional techniques he applied in Mr. Coley's case.
17 Ventura County officials and employees knew of the circumstances of Klamser's
18 termination. Nevertheless, they continued to stand behind Mr. Coley's conviction,
19 including opposing his repeated requests for DNA testing and, critically, falsely and
20 baselessly representing that physical evidence previously stored at the Ventura
21 County Sheriff's Office Crime Lab had been destroyed.
22
23
24

25 12. Decades later, after the Governor ordered Mr. Coley's case be
26 reinvestigated in 2016, Ventura County employees were able to immediately locate
27 the "destroyed" physical evidence. That evidence was promptly tested and excluded
28

1 Mr. Coley as the perpetrator. Based on this testing and the reinvestigation, Ventura
2 County officials and employees concluded that Mr. Coley was factually innocent of
3 the crimes.
4

5 13. On November 22, 2017, Mr. Coley was released from prison after
6 Governor Brown granted his petition for clemency and issued an executive pardon.
7 One week later, on November 29, 2017, the Ventura County Superior Court issued
8 an order finding Mr. Coley factually innocent of the crimes and vacated his
9 convictions. The Ventura County District Attorney's Office joined in both motions
10 on that date.
11
12

13 14. Shortly after his release, Mr. Coley received a personal apology letter
14 from William Maxwell, the Assistant District Attorney who prosecuted his case. Mr.
15 Maxwell stated: "I am profoundly sorry for what happened to you and for my role in
16 it. . . . They say you are a man of high character. Even though that's true, I don't ask
17 for your forgiveness for this horror. It's too much."
18
19

20 15. Mr. Coley was 31 when he was first arrested and 70 when he was
21 released from prison; he lost virtually the entirety of his adult life to wrongful
22 imprisonment, including his opportunities to have a family and establish a career.
23 An only child, Coley lost both of his parents during his horrific ordeal. He was
24 deprived of caring for his father and mother in their old age and felt responsible that
25 they had to spend their savings—money taken from his father's law enforcement
26 pension—to pay for his legal fees.
27
28

1 16. The intentional and reckless acts and omissions of various officers and
2 employees of the Ventura County District Attorney's Office, the Ventura County
3 Sheriff's Office, and the Ventura County Medical Examiner's Office—acting in
4 concert with Klamser and various other SVPD officers—caused Mr. Coley to be
5 wrongly convicted for the murders of Rhonda Wicht and Donald Wicht and to
6 remain wrongly imprisoned thereafter for these crimes.
7

8 17. Absent the actions of Defendants and their co-conspirators, Mr. Coley
9 would not have been wrongly convicted for the Wicht murders on January 3, 1980;
10 would not have been sentenced to life imprisonment without parole on February 26,
11 1980; would not have lost his subsequent appeals; and would have secured a release
12 from his wrongful imprisonment while he still had life ahead of him, instead of
13 spending over 39 years rotting in prison.
14

15 18. As a direct result of Defendants' misconduct, Mr. Coley suffered injuries
16 and damages including bodily and personal injuries; pain and suffering; mental
17 anguish; emotional distress; loss of income; infliction of physical illness; inadequate
18 medical care; humiliation of himself and his family; degradation; restrictions on all
19 forms of personal freedom including but not limited to diet, sleep, personal contact,
20 educational opportunity, and family relations.
21

22 19. Mr. Coley now seeks redress for the egregious misconduct that cost him
23 the best years of his life.
24
25
26
27
28

II. JURISDICTION AND VENUE

20. This action is brought by Craig Coley (“Plaintiff” or “Coley”) pursuant to 42 U.S.C. §1983.

21. This Court has jurisdiction under 28 U.S.C. §1343(4) for violations of the 1871 Civil Rights Enforcement Act, as amended, including 42 U.S.C. §1983, and under 28 U.S.C. §1331.

22. The acts, errors, and omissions complained of all took place within the Central District of California. Therefore, venue lies in this District pursuant to 28 U.S.C. §1391.

III. PARTIES

23. Plaintiff Craig Coley resided within the jurisdiction of the State of California at all times herein alleged.

24. Defendant Ventura County is, and at all times herein alleged was, a public entity organized and existing under the laws of the State of California. The Ventura County District Attorney’s Office, the Ventura County Sheriff’s Office, and the Ventura County Medical Examiner’s office are, and at all times herein alleged were, agencies of Ventura County.

25. At times relevant herein, Defendants William Maxwell, Fred Jones, Kevin McGee, and William Haney, Sr., were Assistant District Attorneys at the Ventura County District Attorney’s Office. During the times they were investigating

1 Mr. Coley's case, they acted outside the scope of their prosecutorial duties. They are
2 sued in their individual capacities.

3 26. At all times relevant herein, Defendants James Henderson, Edward
4 Vasquez, and Glen Kitzmann were Investigators for the Ventura County District's
5 Attorney's Office. They are sued in their individual capacities.
6

7 27. At all times relevant herein, Al Jalaty was the Sheriff of the Ventura
8 County Sheriff's Department. He is sued in his individual capacity.
9

10 28. At all times relevant herein, Robert Kerr, Gary Smith, Deputy Schwartz,
11 Deputy Taylor, Sandra Vanni, and Shanin Sullivan were officers of the Ventura
12 County Sheriff's Department. They are sued in their individual capacities.
13

14 29. At all times relevant herein, Norma Fort and Tom Kotowski were
15 Criminologists at the Ventura County Sheriff's Crime Laboratory. They are sued in
16 their individual capacities.
17

18 30. At all times relevant here, Robert Rubin and Dan Shoneman were
19 employees of the Ventura County Medical Examiner's Office. Rubin was the
20 Medical Examiner, and Shoneman was an Investigator for the Office. They are sued
21 in their individual capacities.
22

23 31. Plaintiff is informed and believes and thereon alleges that Defendants
24 sued herein as Does 1 through 10, inclusive, were employees of Ventura County,
25 and were at all relevant times acting in the course and scope of their employment
26 and agency. Each Defendant is the agent of the other. Plaintiff alleges that each of
27
28

1 the Defendants named as a “Doe” was in some manner responsible for the acts and
2 omissions alleged herein, and Plaintiff will ask leave of this Court to amend the
3 Complaint to allege such names and responsibility when that information is
4 ascertained.
5

6 IV. GENERAL ALLEGATIONS

7 32. Plaintiff is informed and believes, and herein alleges, that, at all times
8 herein mentioned, each of the Defendants was the agent and/or employee and/or co-
9 conspirator of each of the remaining Defendants, and with Klamser and other
10 employees and agents of the Simi Valley Police Department, and in taking the
11 actions hereinafter alleged, was acting within the scope of such agency, employment
12 and/or conspiracy, and with the permission and consent of other co-Defendants.
13

14 33. Each paragraph of this complaint is expressly incorporated into each
15 cause of action that is a part of this complaint.
16

17 34. The acts and omissions of the Defendants were malicious, callous,
18 oppressive, wanton, reckless, grossly negligent, negligent, and/or deliberately
19 indifferent with respect to the rights of Mr. Coley.
20

21 V. KLAMSER WAS WIDELY KNOWN TO BE UNFIT TO BE AN 22 SVPD OFFICER, INCLUDING BY EMPLOYEES AND AGENTS 23 OF VENTURA COUNTY 24

25 35. Robert Klamser was the lead SVPD detective in the Wicht murder case,
26 for which Mr. Coley was wrongfully convicted. Before going to work for SVPD,
27 Klamser was rejected by the Los Angeles Police Department (“LAPD”) as
28

1 psychologically unfit to be a police officer but was nevertheless hired by SVPD
2 within a year thereafter. Klamser then served as an SVPD officer and detective for
3 nearly 20 years before he was terminated as psychologically unfit to serve as a
4 police officer and for a history of unconstitutional practices dating back before the
5 Wicht murders.
6

7 36. By 1978, with very little experience, Klamser held a position as a lead
8 detective, including in homicide cases, despite the fact that it was widely known
9 within SVPD that he routinely engaged in unconstitutional conduct, including
10 manufacturing and using false evidence, withholding evidence, and manipulating
11 evidence to establish guilt against those he considered guilty of crimes. In that
12 capacity, he worked frequently with officials and employees of the Ventura County
13 District Attorney's Office, including prosecutors and investigators; the Ventura
14 County Sheriff's Office, including deputies and criminologists; and the Ventura
15 County Medical Examiner's Office, including its coroner and investigators.
16

17 37. On information and belief, it was well known within the Ventura County
18 District Attorney's Office, including by the Defendants named herein, that Klamser
19 routinely engaged in unconstitutional conduct, including manufacturing and using
20 false evidence, withholding evidence and manipulating evidence to establish guilt
21 against those he considered guilty of crimes. Nonetheless, said Defendants regularly
22 used and relied on false evidence presented by Klamser without adequately
23 investigating and verifying the evidence he presented. Similarly, said Defendants
24
25
26
27
28

1 assumed without any or adequate inquiry or investigation that Klamser had
2 produced to them all exculpatory evidence.

3 **VI. THE WICHT MURDERS**
4

5 38. During the early morning hours of November 11, 1978, Rhonda and
6 Donald Wicht were attacked and murdered in their apartment.

7 39. The attack on the Wichts began at or before 4:30 am; loud screams were
8 heard by neighbors at that time. Rhonda Wicht was raped, beaten and strangled to
9 death with her body left on her bed; her 4-year-old son Donald was smothered and
10 asphyxiated in his bed. The assailant(s) continued their attack for at least an hour,
11 ultimately leaving at approximately 5:30 am.
12

13
14 **VII. DEFENDANTS CONSPIRE WITH KLAMSER TO IGNORE**
15 **EXCULPATORY EVIDENCE AND MANIPULATE**
16 **INCULPATORY EVIDENCE IN ORDER TO PROSECUTE AND**
17 **WRONGFULLY CONVICT MR. COLEY**

18 40. The bodies of Rhonda and Donald Wicht were discovered on the
19 morning of November 11, 1978. Police responded to the scene at approximately
20 11:00 a.m. and promptly interviewed several neighbors, including Glenn Watkins.

21 41. Mr. Watkins, who lived directly downstairs from the Wichts, told
22 Officer Bingaman, in the presence of another SVPD officer, that he had been
23 awakened by screaming from Rhonda's apartment at 4:30 a.m.

24 42. Klamser reported to the scene shortly after and was assigned as lead
25 detective on the case. Upon information and belief, Defendants Deputy Schwartz,
26
27
28

1 Deputy Smith, Norma Fort, and Dan Shoneman were present at the crime scene with
2 Klamser that day. Employees and officials from the Ventura County District
3 Attorney's Office were also present and in close contact with Klamser throughout
4 the day.
5

6 43. Rhonda Wicht was Craig Coley's friend and sometime girlfriend, and
7 her 4-year old son Donald was like a son to Mr. Coley. Mr. Coley had nothing to do
8 with these horrible crimes; at the time of the murders he was miles away at the
9 Howard Johnson in the company of numerous witnesses.
10

11 44. Nonetheless, and without any evidence linking him to the crime, Mr.
12 Coley was wrongly accused and arrested for their murders within hours of the
13 bodies being discovered. His wrongful arrest was due to the fabrication or
14 withholding of evidence and other investigative misconduct committed by
15 Defendants, acting both individually and in concert with Klamser and other SVPD
16 officers not named herein.
17

18 45. By the afternoon of November 11, 1978, Klamser and Ventura County
19 officials and employees—including Deputy District Attorney Maxwell and
20 investigators from the DA's office—were aware that Mr. Coley had an irrefutable
21 alibi until at least 4:45–5:00 a.m. Mr. Coley himself told SVPD officers and a
22 Ventura County District Attorney's Office investigator that he had been at the
23 Howard Johnson's with several witnesses until 4:30 am, and then gave a bus boy a
24 ride home after that.
25
26
27
28

1 46. Contemporaneously, upon hearing of Mr. Coley's arrest for the Wicht
2 murders, Stanley Stoneburg, the manager of that Howard Johnson's restaurant,
3 reached out to provide officials with the exact same information. In a tape-recorded
4 interview at 2:00 p.m. on November 11, 1978, Mr. Stoneburg independently
5 confirmed that Mr. Coley left Howard Johnson's at 4:30 a.m., then drove a bus boy
6 home from work.
7

8 47. During his investigation, Klamser attended the autopsy of Rhonda
9 Wicht. Also present at the autopsy were Defendants Maxwell, Schwartz, Fort, and
10 Shoneman. Defendants and Klamser knew that the time of death was critical to this
11 investigation. Yet Defendants, including Ventura County Medical Examiner's
12 Office Investigator Shoneman, utterly failed to collect even the most basic
13 information necessary for that determination at the crime scene, including ambient
14 air temperature and body temperature. Klamser did not request or direct the Ventura
15 County Medical Examiner to estimate the time of death, and Defendants Shoneman
16 and Fort—a Ventura County criminologist—never even attempted to determine the
17 time of death, nor did the Ventura County Medical Examiner do so, despite their
18 knowledge that Mr. Coley had an alibi for the reported time of the murders. They
19 and the other Defendants purposely or with reckless indifference to Mr. Coley's
20 rights conspired with Klamser to withhold and/or fail to investigate this potentially
21 exculpatory evidence. Defendants' failure to investigate or determine the time of
22 death was done despite their full knowledge that Mr. Coley had an ironclad alibi
23
24
25
26
27
28

1 through at least 4:45 a.m. and independent witness statements indicating that the
2 death likely occurred at approximately 4:30 a.m.; thus, the Defendants were fully
3 aware of the exculpatory value of the evidence at the time it was lost or destroyed,
4 rendering such loss or destruction in bad faith.
5

6 48. On November 11, 1978, Klamser also prepared an affidavit for entry into
7 Mr. Coley's apartment. At the time he prepared the affidavit, both Klamser and
8 Defendants were aware that Mr. Coley had an alibi at 4:30 a.m. (the time witness
9 Glenn Watkins had reported first hearing screams from the victim's apartment), and
10 were aware that Stanley Stoneburg had provided evidence that Mr. Coley was at
11 Howard Johnson's at that time. Klamser deliberately omitted these exculpatory
12 details from his affidavit for a search warrant. Defendants knowingly or recklessly
13 allowed and relied on Klamser's affidavit without taking any steps to correct these
14 material omissions or to otherwise ensure that the court reviewing the affidavit was
15 apprised of the full circumstances and known evidence regarding the Wicht murders
16 and Mr. Coley.
17

18 49. During the execution of the search warrant, no blood or physical
19 evidence was located on any of Mr. Coley's clothing, including the clothing that he
20 was seen wearing until at least 4:40 a.m. the morning of the murder. Klamser was
21 physically present for hours during the search of Mr. Coley's home. Defendants
22 Schwartz and Fort accompanied Klamser in his unlawful search of Mr. Coley's
23 apartment on that afternoon and at least one other occasion. They were, or should
24
25
26
27
28

1 have been, aware of Klamser's material omissions and distortions of the evidence
2 contained in the affidavit that formed the basis for the search in which they
3 participated.
4

5 50. At that point, Mr. Coley had been arrested but Defendants and Klamser
6 were faced with a dearth of true evidence implicating him as well as compelling
7 alibi evidence. As a result, Klamser conspired with Defendants to manipulate the
8 evidence to support a prosecution and ultimately a conviction and life sentence—
9 events which marred Mr. Coley's life forever. Upon information and belief, the
10 misconduct engaged in by Klamser and Defendants, acting both individually and in
11 concert, included but is not limited to:
12
13

14 a. Taking one of 4-year-old Donald Wicht's t-shirts from the crime
15 scene—which was visibly stained with semen and blood—and planting
16 it either at Mr. Coley's home or among evidence collected from Mr.
17 Coley's home. Klamser made a number of material misrepresentations
18 in his affidavit and report about the collection of the shirt, which
19 Defendants Schwartz and Fort either knew or should have known were
20 false but did not correct and in fact corroborated.
21
22

23 b. Coercing, manipulating, and fabricating a statement from Watkins by
24 getting him to change the time at which he reported first hearing
25 screams from 4:30 a.m. (when Coley had an airtight alibi) to 5:30 a.m.
26
27 Weeks after the murder, Klamser and, at a minimum, Defendant
28

1 Henderson—an investigator for the Ventura County District Attorney’s
2 Office—conducted multiple unrecorded interviews of Mr. Watkins
3 concerning the critical time at which Watkins heard screams from his
4 apartment. Those interviews were not taped, not memorialized in
5 handwritten notes, and not documented in any formal reports. It was
6 only after Watkins changed the reported time to 5:30 a.m. that
7 Defendant Henderson recorded that interview on January 19, 1979. On
8 information and belief, Watkins initially told Henderson that what he
9 heard occurred at 4:30 a.m., which was exculpatory information never
10 disclosed by Henderson. Upon information and belief, Defendants
11 Henderson and/or Vasquez also made promises to Watkins prior to his
12 trial testimony in exchange for him testifying falsely against Mr. Coley,
13 which evidence was never disclosed.
14

- 15
- 16 c. Destroying, suppressing, and/or failing to test exculpatory physical and
17 forensic evidence that was to be tested and retained by the Ventura
18 County Sheriff Office’s Crime Laboratory.
19
- 20 d. Suppressing, withholding, or otherwise failing to investigate evidence
21 inculpatory other more likely suspects, including but not limited to
22 Defendant Vasquez having interviewed another witness, Barbara
23 Williams-Barone, who said that Rhonda Wicht was expecting three
24
25
26
27
28

1 men at her apartment that night—none of whom had alibis and all of
2 whom had forensic evidence tying them to the crime scene.

3 e. Suggesting, coercing, and fabricating an identification of Mr. Coley’s
4 truck from another neighbor and witness, Debbie Villafranca. Ms.
5 Villafranca was a notoriously unreliable and biased witness: a drug
6 dealer and user who claimed to have peeked out from her curtains
7 during the pre-sunrise hours of a rainy night, while not wearing her
8 glasses, and seen Mr. Coley’s truck leaving the apartment. Although
9 Ms. Villafranca never looked at a clock at the time, she later estimated
10 she saw this truck leaving around 5:30 or 6:00 a.m. However, Ms.
11 Villafranca was unable to identify a photo of Mr. Coley’s truck taken in
12 broad daylight when presented in a photo line-up. Klamser, at the
13 direction of a November 17, 1978 memorandum from Defendant
14 Maxwell—who was acting outside the scope of his prosecutorial duties
15 and actively engaging in investigative conduct—thus orchestrated an
16 incredibly suggestive “reenactment” to procure an identification from
17 Ms. Villafranca of Mr. Coley’s truck, including towing a vehicle from
18 the place he was informed it had been the night of the crime and
19 placing the truck within Ms. Villafranca’s line of sight from her
20 apartment. Only through this suggestion and manipulation were
21 Defendants and Klamser able to obtain a completely unreliable
22
23
24
25
26
27
28

1 identification of the truck from Ms. Villafranca. Further, upon
2 information and belief, employees and/or officials from the Ventura
3 County District Attorney's Office coerced and/or threatened
4 Villafranca's testimony in Mr. Coley's trial.
5

- 6 f. Fabricating evidence from Bonnie Castillo, Mr. Coley's landlady, to
7 support a fantastic story by asserting that Mr. Coley had disposed of
8 certain inculpatory evidence in order to implicate him. Klamser in
9 concert with certain Defendants hypothesized that Mr. Coley had stolen
10 Ms. Castillo's car, driven that car to a nearby pond and disposed of his
11 clothing and other criminal evidence there. This theory was advanced
12 even though it was known to Klamser and Defendants what Mr. Coley
13 was wearing at 4:30 a.m. on the night of the murders, and these
14 clothing items were in Mr. Coley's apartment and none had any
15 forensic evidence on them. In conjunction with Klamser, the Ventura
16 County Search and Rescue Team searched the pond. No evidence was
17 located. Nevertheless, in support of this illogical theory, Klamser and
18 Defendant Vasquez conducted interviews of Ms. Castillo and falsely
19 reported that (1) Ms. Castillo had identified a Volkswagen key on Mr.
20 Coley's keychain as a key belonging to her husband which had been
21 misplaced and (2) that this key fit the ignition on Ms. Castillo's
22 Volkswagen. Ms. Castillo had in fact stated only that one of the keys
23
24
25
26
27
28

1 “looked like” a key to her old house, and it was known that the
2 Volkswagen key fit Mr. Coley’s ex-wife’s car, not Bonnie Castillo’s.
3 Given his involvement in the investigation, Defendant Vasquez knew
4 or should have known that this information was false.
5

6 g. Failing to conduct a reasonable investigation into the Wicht murders,
7 including failing to follow up on forensic and other leads implicating
8 other more likely suspects who had no alibis, including disregarded
9 information incriminating Robert Bowyer, James Ireton and David
10 Mobley, all of whom spent time with the victims just prior to their
11 murders, and all of whom were connected to the murder scene via
12 forensic and fingerprint evidence.
13
14

15 51. Either there never existed sufficient or just cause to arrest or prosecute
16 Mr. Coley, or such cause was lost at some prior to Mr. Coley’s trial or retrial which
17 ended in his conviction in 1980. The charges against him, and the evidence
18 presented to justify them, were the product of Defendants’ use of manipulated, false
19 and fabricated evidence, and suppression of exculpatory evidence.
20
21

22 52. Klamser and, on information and belief, Defendants decided
23 immediately, and without proper investigation, that Mr. Coley was guilty of the
24 murders. When the evidence did not support Klamser’s hunch (because Mr. Coley
25 was innocent and had an ironclad alibi for the time of the murder), he conspired with
26 Defendants to suppress and destroy exculpatory evidence throughout the
27
28

1 investigation, and openly take other wrongful actions throughout the investigation,
2 at trial, at sentencing, and afterwards to convict him, to secure a life sentence
3 without parole, and to ensure Mr. Coley would never be released from his
4 imprisonment after conviction.
5

6 53. Mr. Coley truthfully proclaimed his innocence during the investigation,
7 and throughout his imprisonment. Because of the lack of evidence against him, Mr.
8 Coley's first trial ended in a hung jury on April 13, 1979.
9

10 54. Hundreds of community members insisted on Mr. Coley's innocence,
11 unfortunately to no avail. Mr. Coley had no criminal record prior to his conviction
12 and had always been gainfully employed. The judge who presided over the first trial
13 was reported as saying he could not imagine a guilty verdict based on the evidence
14 presented at that trial. Nevertheless, in reliance on the false information provided by
15 Defendants and their co-conspirators, the Ventura County District Attorney's Office
16 reinstituted criminal charges and retried Mr. Coley in 1979.
17
18

19 **VIII. MR. COLEY IS WRONGFULLY CONVICTED**
20

21 55. Defendants, in conjunction with Klamser, continued to engage in
22 wrongful investigatory misconduct after the first trial ended. Despite the fact that
23 Ventura County had exculpatory evidence and impeachment evidence that would
24 have saved Mr. Coley from conviction, Ventura County officials and employees
25 wrongfully withheld this evidence from Mr. Coley and his attorney in 1979 and
26
27
28

1 1980. As a result, Mr. Coley could not prove his innocence and the retrial ultimately
2 ended in a conviction on January 3, 1980.

3 56. When Mr. Coley—an innocent man—was found guilty, he sustained
4 shock; being wrongfully convicted of a crime he did not commit caused him great
5 physical illness and to sustain great mental anguish. This January 3, 1980 wrongful
6 conviction was an event that forever defamed his character and humiliated him in
7 front of the world. Whether or not Ventura County expected or intended to convict
8 an innocent man or to cause these grave injuries, Ventura County is nonetheless
9 legally responsible because Mr. Coley's conviction was ultimately a result of the
10 County's deliberate indifference or reckless policies and procedures, its failure to
11 train and supervise its employees, and/or its negligent hiring or supervision.
12

13
14
15 **IX. MR. COLEY IS WRONGFULLY SENTENCED TO LIFE**
16 **IMPRISONMENT WITHOUT PAROLE**

17 57. After conviction but before sentencing, Mr. Coley and his attorneys
18 sought impeachment and exculpatory evidence that would have mitigated any
19 sentence.
20

21 58. However, Ventura County officials and employees, in concert with
22 Klamser, continued to wrongfully withhold exculpatory and impeachment evidence
23 in their possession despite continued cries from the community that Mr. Coley was
24 innocent and should not be punished.
25
26
27
28

1 59. Ventura County and the individual Defendants thereby acted with
2 deliberate indifference, recklessness, or negligence in failing to provide Mr. Coley
3 exculpatory evidence or other evidence of his good character, and instead defamed
4 him to the sentencing court and to the public.
5

6 60. As a result, on February 26, 1980, the Superior Court of Ventura County
7 denied Mr. Coley's application for probation, and instead ordered Mr. Coley to serve
8 two concurrent life sentences without the possibility of parole based on Ventura
9 County and Defendant Maxwell's submissions.
10

11 61. As a result of this event, Mr. Coley was devastated, and locked up for
12 life with dangerous people who wanted to and did do harm to him, causing Mr.
13 Coley grievous injuries in subsequent years. Mr. Coley's February 26, 1980
14 sentencing was an event that forever invaded Mr. Coley's rights to live a private life.
15

16 62. Whether or not Ventura County expected or intended that an innocent
17 man would be sentenced to life in prison without the possibility of parole or to cause
18 the injuries that Mr. Coley sustained, Ventura County is nonetheless legally
19 responsible for his life sentence because it was ultimately a result of Ventura
20 County's deliberate indifference or reckless policies and procedures, its failure to
21 train and supervise its employees, and/or its negligent hiring or supervision.
22
23
24
25
26
27
28

X. EVIDENCE DESTRUCTION AND SUPPRESSION BY VENTURA COUNTY

63. Mr. Coley continued in desperation to secure his release from his horrific situation, filing numerous post-conviction appeals, post-conviction motions, petitions for writ of habeas corpus, and petitions for clemency throughout his decades of wrongful imprisonment. Ventura County employees and officials knew of these efforts and the basis for them because Mr. Coley and his attorney continued to reach out to Ventura County and request the physical exculpatory evidence and impeachment evidence in their possession.

64. Despite Ventura County employees and officials' knowledge of these efforts, and despite knowledge of certain Defendants that there was physical and documentary evidence that could establish Mr. Coley's innocence, that evidence was either wrongfully destroyed and/or negligently not preserved in 1985. Particularly because they knew of Mr. Coley's post-conviction efforts, Ventura County had a legal and constitutional obligation to preserve this evidence and ensure it was not destroyed but, upon information and belief, did the opposite by either ordering the evidence destroyed and/or negligently failing to preserve the evidence.

65. As a result, on October 16, 1985, an Order for Disposition of Criminal Evidence was filed in the Superior Court of California in Ventura County, with Ventura County's knowledge and consent, which included an order to destroy physical and other exculpatory evidence proving Mr. Coley's innocence. On

1 November 26, 1985, almost all of the evidence in the Wicht murder case was
2 destroyed without notice to Mr. Coley or his attorney.

3 66. Ventura County is liable for this wrongful destruction and its failures to
4 inform Mr. Coley and his attorneys of its impending destruction. Ventura County is
5 also liable for failing to preserve critical evidence and failing to intervene in the
6 destruction of that evidence because it had explicit notice of Mr. Coley's attempts to
7 secure his release. This failure to intervene was especially egregious in light of
8 Ventura County and individual Defendants' growing knowledge that Klamser
9 routinely fabricated inculpatory evidence and suppressed exculpatory evidence in
10 his investigations.
11

12
13 67. Mr. Coley's filed a petition for post-conviction relief on September 19,
14 1986, and, in conjunction with this motion, sought materials and exculpatory
15 evidence in Ventura County's possession, in particular evidence stored at the
16 Ventura County Sheriff's Office, that would have proved his innocence and released
17 him from his wrongful imprisonment.
18

19
20 68. Ventura County employees and officials were aware of and were in
21 possession of exculpatory evidence to which Mr. Coley was legally and
22 constitutionally entitled in connection with this post-conviction proceeding
23 (including the growing evidence of Klamser's similar wrongdoing), but they
24 concealed it. As a result, Ventura County violated Mr. Coley's right to rely on this
25
26
27
28

1 evidence to support his post-conviction motion for release and his habeas petition
2 was denied on January 7, 1987.

3 69. Mr. Coley appealed that denial less than a month later on February 26,
4 1987. Again, Ventura County knew of Mr. Coley's efforts to overturn his appeal
5 but breached its legal and constitutional obligations to turn over the evidence in their
6 possession to Mr. Coley to support his post-conviction efforts. The actions,
7 inactions, errors, and/or omissions taken by Ventura County during this time
8 ensured that Mr. Coley would once again lose his appeal. His appeal was denied on
9 April 1, 1987, causing Mr. Coley to suffer continued wrongful imprisonment,
10 mental anguish, embarrassment, humiliation, emotional distress, defamation of
11 character, and violation of property rights.
12

13 70. In 1988, Mr. Coley's father, Wilson Coley—a retired Los Angeles police
14 officer—died of a heart attack. Because Mr. Coley was wrongly incarcerated, he
15 could not be by his father's side when he passed, could not attend his funeral, and
16 could not bury him. Mr. Coley's father passed away before he could see his only son
17 exonerated and freed from prison. This devastating loss and deprivation of familial
18 relationships with his father and grieving mother caused Mr. Coley to suffer extreme
19 and severe mental anguish, anxiety, shock, and humiliation because of the wrongful
20 actions of Ventura County and its officials and employees.
21
22
23
24
25
26
27
28

1 **XI. VENTURA COUNTY IGNORES OR SUPPRESSES CLEAR**
2 **EVIDENCE OF MR. COLEY’S ACTUAL INNOCENCE THAT**
3 **COMES TO LIGHT**

4 71. In 1989, Michael Bender, a decorated SVPD officer with no ties to Mr.
5 Coley, began looking into the investigation of the Wicht murders because of
6 Klamser’s growing reputation in the Department for investigatory misconduct,
7 including fabricating inculpatory evidence and suppressing exculpatory evidence.

8 72. Beginning in 1989, Bender reported Klamser’s unlawful and unethical
9 behavior to SVPD Chief Paul Miller and to the City Attorney. During this same time
10 period, SVPD was internally investigating Klamser’s conduct in criminal
11 investigations. In December 1989, SVPD Chief Boyce sent Klamser a Notice of
12 Intended Disciplinary Action, which required him to submit to medical and
13 psychological testing. Upon information and belief, certain Ventura County
14 officials and employees—including the Ventura County District Attorney—were
15 aware at that time of Bender’s investigation and Klamser’s growing reputation for
16 unconstitutional conduct but took no action on Mr. Coley’s case.

17 73. As part of Bender’s efforts to reinvestigate the Wicht murders, he re-
18 interviewed witnesses and jury members in September 1990. These interviews and
19 his review of Klamser’s case file established that Mr. Coley was innocent and that
20 Klamser in concert with Defendants had framed him. Bender continued to inform
21 Ventura County and Simi Valley officials about Klamser’s misconduct, but his
22 efforts were ignored or suppressed by County officials and employees. Ventura
23
24
25
26
27
28

1 County Deputy District Attorney at the time, Kevin McGee, was aware of Bender's
2 efforts to free an innocent man but instead of speaking with Bender about his
3 investigation, McGee went directly to Klamser—who by then had been promoted to
4 Lieutenant—and the SVPD to warn them of Bender's work on September 13, 1990.
5

6 74. Without knowledge that the County was regularly discussing Mr.
7 Coley's case, in October and November of 1990, Bender sent letters to City Hall,
8 the City Manager, the Mayor, and the Attorney General informing them that
9 Klamser used deliberately discriminatory tactics and unlawful means to close cases
10 in Simi Valley. Bender continued to urge Ventura County and Simi Valley officials
11 to realize that false arrests and convictions were happening because of Klamser's
12 actions, and that Bender now had proof that Mr. Coley was innocent.
13
14

15 75. All Bender asked for was an impartial investigation into Klamser's
16 unlawful behavior, but despite his evidence and Klamser's infamous reputation, no
17 Ventura County official took any action. Ventura County also yet again failed to
18 provide Mr. Coley with the exonerating evidence learned about after his conviction.
19
20

21 76. Ventura County took no steps to investigate Mr. Coley's case or
22 Klamser's misconduct. Instead, Ventura County buried or otherwise failed to act on
23 this information, despite the crystal clear evidence that Mr. Coley was innocent or,
24 at a minimum, that the prosecution and investigation should be reopened.
25

26 77. Because Ventura County officials and employees had alerted SVPD to
27 Bender's re-investigation, on September 19, 1991, SVPD Chief Miller formally
28

1 ordered Bender to cease and desist with investigating the Wicht murders, Mr.
2 Coley's innocence, and Klamser's misconduct or face immediate suspension or
3 termination from the Simi Valley police force. By engaging in this conduct,
4
5 Defendants interfered with, hindered, undermined and prevented Mr. Coley's ability
6 establish his innocence and pursue legal remedies available to him.

7
8 78. Ventura County's repeated failure to investigate Mr. Coley's innocence
9 and its undermining and obstructing of his efforts to exonerate himself were
10 intentional or in reckless disregard of their legal and constitutional obligation to
11 provide Mr. Coley with exculpatory evidence of his innocence rather than actively
12 suppress that evidence, and because of that Mr. Coley remained in prison instead of
13 using the exculpatory information Bender told Ventura County about to secure his
14 release.
15

16
17 79. At best, Ventura County's actions were negligent, and at the most they
18 were intended to keep an innocent man behind bars to protect the County's
19 reputation—as evidenced by County officials going immediately to Klamser and the
20 SVPD to have Bender cease his reinvestigation. Additionally, the failure of Ventura
21 County to disclose extensive information of Klamser's misconduct prevented Mr.
22 Coley and his attorney from fully investigating and undermining the evidence
23 Klamser had fabricated to convict Mr. Coley of a double homicide.
24
25

26 80. On November 18, 1992, Klamser falsely arrested Paul Nolan (another
27 SVPD police officer), whom he knowingly framed. The investigation of this false
28

1 arrest finally led to Klamser's placement on administrative leave in February
2 1993—more than two years after Bender was threatened with termination and after
3 he ultimately was shoved out of the department once the District Attorney alerted
4 SVPD to his efforts to prove Mr. Coley's innocence. Upon information and belief,
5 Ventura County officials and employees were aware of the false arrest of Nolan and
6 Klamser's misconduct in that investigation.
7
8

9 81. In February 1993, the Simi Valley Public Defender's Office filed a
10 complaint against Klamser for withholding exculpatory evidence and sought his
11 personnel file on the basis of his history of "falsely arresting people, writing false
12 reports, or withholding facts in investigations." Upon information and belief,
13 Ventura County officials and employees were aware of this complaint.
14
15

16 82. Once placed on leave, Klamser was evaluated by Dr. Green, a
17 psychiatrist hired by Simi Valley. On November 17, 1993, Dr. Green concluded that
18 Klamser was psychologically unfit to serve as a police officer due to pre-existing
19 personality disorders such as Paranoid Personality Disorder and Narcissistic
20 Personality Disorder. That month, Klamser was placed on an unpaid leave of
21 absence; ordered to surrender his pistol, ID, and badge; and SVPD personnel were
22 informed that he was not allowed on the premises without an escort. Yet, it was not
23 for another six months—on June 30, 1994—that SVPD finally notified Klamser that
24 he was mentally incapacitated and forced him to retire. SVPD not only knew that
25 Klamser was "unfit" but also knew that Dr. Green's report concluded that he framed
26
27
28

1 Paul Nolan, an innocent and falsely arrested fellow police officer, pursued the
2 conviction, and deliberately used exculpatory facts to alert the alleged victim that
3 police knew she had been lying—the exact same tactics bender had told Ventura
4 County officials Klamser employed against Mr. Coley in the murder investigation.
5 Upon information and belief, Ventura County officials and employees were aware
6 of and/or involved in SVPD’s evaluation and ultimate termination of Klamser.
7
8

9 83. Even after a retained expert found Klamser was, and always had been,
10 unfit to serve as a police officer, and that *every* case in which he had been involved
11 was potentially tainted, Ventura County did not advise persons (which it was legally
12 and constitutionally required to do), including Mr. Coley, that his conviction was
13 potentially tainted, nor did it take *any* steps to reinvestigate Mr. Coley’s case or to
14 look into the clear evidence of innocence in its possession. Instead, Ventura County
15 actively resisted requests to re-examine Mr. Coley’s prosecution for years. Ventura
16 County’s actions, errors, inactions, omissions, policies, and/or procedures resulted in
17 Mr. Coley’s inability to prove his innocence and secure his release.
18
19
20

21 84. Mr. Coley filed another habeas corpus petition on April 22, 1997, in the
22 Supreme Court of the State of California, but it was denied because Ventura County
23 suppressed the now mountains of evidence of Mr. Coley’s innocence and the
24 growing impeachment evidence against Klamser. Ventura County is liable for
25 failing to report or reveal that information to Mr. Coley, to his attorneys, or to the
26
27
28

1 post-conviction courts, which would have secured Mr. Coley's release from his
2 horrific ordeal.

3 85. On November 15, 2009, Mr. Coley applied for Clemency from the
4 Governor of California for the first time. Mr. Coley's application stated that he was
5 requesting clemency because of his wrongful conviction, that his legal means had
6 been thwarted due to evidence destruction, and that his ailing mother needs help.
7

8 86. Despite Ventura County's knowledge of Mr. Coley's petition for release
9 and its ability to aid in the process by turning over exculpatory evidence or facts
10 known to the County, Defendants once again failed Mr. Coley by continuing to
11 conceal exculpatory evidence regarding the Wicht murders and Klamser's extensive
12 misconduct, resulting in the denial of his clemency application.
13

14 87. In direct response to Mr. Coley's clemency petition, Glen Kitzmann, the
15 Deputy Chief Investigator at the District Attorney of Ventura County's office, sent a
16 letter to the Board of Parole Hearings on January 20, 2010 stating:
17

18
19 Upon review of his application it was determined that Mr. Coley
20 is currently serving a life without the possibility of parole sentence
21 for murder from a 1978 case. We have also been notified of a
22 claim that potential problems may have occurred during the
23 investigation of the original case.

24 At this time we are unable to support Mr. Coley's request for
25 clemency. We are conducting a review of the case to determine
26 the validity of the claim of problems in the initial investigation
27 that could affect the conviction. Upon completion of that review
28 we would be in a better position to make a final determination as
to Mr. Coley's request for clemency.

1 88. Ventura County thus not only condoned but had its employee participate
2 in the sending of letters to the Board of Parole in connection with Mr. Coley's post-
3 conviction petitions, which letters contained disparaging and misleading statements
4 designed to ensure Mr. Coley would never be granted early release. It was not until
5 almost a year later on September 9, 2011, that the Deputy District Attorney notified
6 Bender that the Governor's office closed out Mr. Coley's clemency petition.
7

8
9 89. This means that, despite knowledge on the part of Ventura County
10 officials and the Ventura County District Attorney's Office about Klamser's
11 investigatory misconduct, his preexisting personality disorders, and his fabrication
12 and suppression of exculpatory evidence in Mr. Coley's case, and the role that
13 certain Defendants played in that misconduct, these Ventura County officials
14 claimed that further review was necessary, never completed that review, and failed
15 to disclose and instead actively suppressed evidence directly bearing on Mr. Coley's
16 innocence that should have been considered by the parole board in 2010-2011.
17

18
19 90. In addition to this denial and remaining in jail for a crime he did not
20 commit, that same year—in 2011—Mr. Coley's mother passed away. Mr. Coley
21 begged in his clemency application that his mother needed help because of her
22 ailing health, which Ventura County was further made aware of through Bender's
23 efforts. Because of Ventura County's continued withholding of exculpatory
24 evidence and its active endeavor to keep Mr. Coley behind bars, Mr. Coley was not
25 there by his mother's side when she needed him, he could not attend her funeral, and
26
27
28

1 he could not be there to bury her. Mr. Coley—an only child with no children of his
2 own—lost his last direct relative without any opportunity to say goodbye. Losing his
3 mother while in prison, on top of losing his father, deprived Mr. Coley of the
4 strongest familial relationship he had before prison, and caused Mr. Coley to suffer
5 extreme and severe mental anguish, anxiety, shock, and embarrassment because of
6 the wrongful actions of Ventura County, its officials, and employees.
7

8
9 91. At no point during or after Mr. Coley’s applications for clemency did
10 any Ventura County official or employee come forward with the exculpatory
11 evidence that Bender had given them, including evidence that had been in their
12 possession for over a decade.
13

14 92. Ventura County officials and employees, in conjunction with Klamser
15 and other Simi Valley officers and officials not named herein, actively concealed
16 this and other exculpatory evidence with explicit notice that Mr. Coley’s legal and
17 constitutional rights, including his right to use this evidence to prove his innocence
18 in a clemency application, would be violated. Not only did they fail to come forward
19 with exculpatory evidence, but they destroyed documents and physical evidence that
20 would have proved Mr. Coley’s innocence, ultimately causing the denial of his
21 clemency application.
22
23
24

25 93. On December 9, 2013, Mr. Coley again applied for Clemency from the
26 Governor of California. Over the next several years Bender continued to fight for
27 Mr. Coley’s release and continued to tell Ventura County officials and employees of
28

1 the miscarriage of justice that was Mr. Coley's conviction, but they did little or
2 nothing.

3 **XII. VENTURA COUNTY WITHHOLDS DNA EVIDENCE**
4 **REQUESTED BY MR. COLEY, THAT WOULD HAVE**
5 **EXONERATED HIM, FOR OVER A DECADE.**

6 94. In 2000, the state of California passed Cal. Pen. Code §1405 giving
7 convicted individuals a liberty interest in having evidence DNA tested in order to
8 exonerate them. Under the statute, a convicted person's rights to DNA evidence
9 became absolute: "Notwithstanding any other provision of law, the right to file a
10 motion for postconviction DNA testing provided by this section is absolute and shall
11 not be waived."
12

13
14 95. Pursuant to this statute, Mr. Coley filed a motion in 2002 requesting that
15 the physical evidence found at the scene of the Wicht murders be tested, specifically
16 for DNA evidence. However, later that year, he was told by the Ventura County
17 District Attorney's Office and the Ventura County Sheriff's Office all physical
18 evidence from his case had been destroyed—without notice to him. He was also
19 told that on top of the destruction of key physical and exonerating evidence, Mr.
20 Coley's original file from the District Attorney's office was "lost" or destroyed.
21

22 96. The District Attorney responded to Mr. Coley's request for DNA by
23 stating that the evidence was no longer in the County's possession and that therefore
24 the motion to re-test evidence should be denied. Mr. Coley requested DNA testing
25
26
27
28

1 on numerous occasions from 2003 through 2017, but was told over and over again
2 by Ventura County that there was no physical evidence to be tested.

3 97. But Ventura County, at best, failed to conduct even the most minimal
4 search for this evidence or, alternatively, intentionally misrepresented that no such
5 evidence could be located and/or was in its possession. In fact, the Ventura County
6 Crime Lab either possessed or knew the location of physical evidence from the
7 Wicht murders capable of being tested, including a Mickey Mouse t-shirt with blood
8 and sperm on it. That shirt was turned over last year and, once tested, exonerated
9 Mr. Coley as the perpetrator of these crimes.
10

11 98. Ventura County's nonfeasance, misfeasance, and failure to even take the
12 time to look for DNA evidence, despite Mr. Coley's desperate requests, is
13 outrageous and grossly negligent. Ventura County's refusal to lift a finger to help
14 Mr. Coley establish his innocence through DNA testing, for over a decade, caused
15 him to continue to rot in prison until finally, in October of 2016, the Governor
16 ordered that Mr. Coley's case be re-investigated by the Board of Parole Hearings.
17

18 99. Immediately, the officer in charge of that reinvestigation found physical
19 exculpatory evidence simply by looking in the evidence boxes and making a single
20 phone call. Had Ventura County employees actually looked for that evidence any of
21 the numerous times the information was requested after 2003, they obviously would
22 have found it. This reckless and grossly negligent conduct on behalf of Ventura
23
24
25
26
27
28

1 County is inexcusable and could have easily been avoided had they not been
2 actively trying to suppress evidence of Mr. Coley's innocence for decades.

3 100. Mr. Coley lost fourteen more years of his life in prison because of
4 Ventura County's negligence and failure to act, causing him countless mental and
5 physical injuries and preventing him from caring for his ailing mother and being
6 present when she passed away.
7

8 101. Based upon Ventura County's repeated misrepresentations that there
9 was no physical evidence to be tested, Mr. Coley's DNA testing request was denied,
10 and his ability to get relief for the crime he did not commit was again thwarted by
11 Ventura County officials' actions and inactions. These intentional
12 misrepresentations and/or negligent evidence handling prohibited Mr. Coley from
13 securing his freedom throughout the 2000's, for which Ventura County and its
14 officials and agents are liable.
15
16
17

18 102. After the Governor's 2016 order, the Ventura County District Attorney's
19 Office, the City of Simi Valley, and SVPD submitted to a re-examination of the
20 evidence against Mr. Coley, including subjecting evidence from the crime scene to
21 DNA testing. That DNA testing demonstrated Mr. Coley's innocence, showing that
22 key evidence used to convict Mr. Coley did not have his DNA on it and instead had
23 the DNA of other individuals. The re-investigation also included a review of the
24 thousands of pages of records, and newly conducted interviews, which further
25 supported Mr. Coley's innocence.
26
27
28

1 103. At the end of the re-investigation the Ventura County District Attorney's
2 Office admitted that Mr. Coley was factually innocent.

3 104. On November 22, 2017, the Governor granted an incredibly rare full
4 pardon on the basis of Mr. Coley's factual innocence. The Governor noted that
5 "[t]he grace with which Mr. Coley has endured this lengthy and unjust incarceration
6 is extraordinary" and ordered him released from prison "immediately."
7

8 105. The grant of a pardon based on innocence by the Governor is an
9 extraordinary event. Few pardons are provided annually (normally under 200 out of
10 a prison population of well over 100,000 people), and virtually all pardons are for
11 people who have already served their sentence and led an exemplary post-prison
12 life; these are not pardons because they are found factually innocent. (In a Google
13 search for "California pardons innocence," only Mr. Coley's case is identified in the
14 first few pages; the other results relate to pardons or innocence projects generically
15 but not to other individual cases where a pardon was granted based on innocence.)
16

17 106. On November 29, 2017, the Superior Court of the State of California for
18 the County of Ventura issued an order pursuant to Cal. Penal Code § 851.8 finding
19 Mr. Coley factually innocent of the Wicht murders. That same day, the Superior
20 Court issued another order vacating Mr. Coley's conviction pursuant to Cal. Penal
21 Code § 1473.7. The Ventura County District Attorney's Office joined in both
22 motions.
23
24
25
26
27
28

1 107. Ventura County was aware of all of Mr. Coley's post-conviction
2 appeals, motions, petitions, and clemency applications and the basis for each of
3 them. However, the County failed to provide, concealed, suppressed or destroyed
4 exculpatory evidence in connection with the wrongful investigation. Ventura County
5 officials and employees learned that Klamser's investigations were improper, and
6 were presented information establishing that Mr. Coley was indeed innocent and
7 was being wrongfully imprisoned. Ventura County and its officials had legal and
8 constitutional duties to give Mr. Coley exculpatory and impeachment evidence in
9 their possession and to assist him in securing his early release. However, at best
10 Ventura County is liable for its inactions and nonfeasance in breaching its
11 obligations to do so, and at worst is liable for the actions of its officials and
12 employees to actively bury, conceal and destroy the evidence of Mr. Coley's
13 innocence causing him to rot in prison for 39 years. Throughout his horrific ordeal,
14 the Ventura County District Attorney, the Ventura County Sheriff, and others failed
15 in their supervisory capacities to expose and remedy the unconstitutional conduct of
16 their subordinates, about which they knew or should have known.

17
18 108. Ventura County is legally responsible for not only the reputational
19 injuries that Mr. Coley suffered at the time of his conviction and the devastation at
20 his sentencing, but also for the discrete injuries that Mr. Coley sustained because of
21 his continued wrongful imprisonment and his inability to free himself despite the
22 fact that his innocence became obvious to Ventura County. Ventura County's
23
24
25
26
27
28

1 inaction and misfeasance was the direct and proximate cause of his continued
2 wrongful imprisonment for decades and the bodily injuries, mental anguish, mental
3 distress, sickness, disease, assaults and batteries, and other injuries that Mr. Coley
4 sustained from his exposure to prison conditions.
5

6 109. The discrete bodily and personal injuries which Mr. Coley sustained and
7 his civil rights—which were violated every day he was wrongfully imprisoned—
8 were the foreseeable consequences of Ventura County’s misconduct, and these
9 numerous injuries (some life-threatening) were actually and proximately caused by
10 Ventura County’s actions or the actions of those for whom Ventura County is liable.
11
12

13 110. With the blatant evidence of Klamser’s misconduct, and the misconduct
14 of individual Defendants, in both Mr. Coley’s case and others, Ventura County had
15 a legal obligation to reopen and reinvestigate Mr. Coley’s conviction and to help
16 him secure his release through his post-conviction efforts (which they explicitly
17 knew about), but Ventura County officials and employees either concealed the
18 evidence or failed to act.
19
20

21 111. Indisputably, Ventura County is liable for its wrongful actions and
22 actions that created a dangerous condition for Mr. Coley, and Ventura County is
23 liable for the bodily injuries, assaults and batteries, and numerous other injuries Mr.
24 Coley sustained in prison. Despite repeated entreaties, Ventura County actively
25 resisted Bender’s dogged efforts to re-examine Mr. Coley’s case for decades, until
26 shortly before his ultimate exoneration.
27
28

XIII. PARTICIPATION, STATE OF MIND, AND DAMAGES

112. All Defendants acted without authorization of law.

113. Each Defendant individually, jointly, and/or in concert and conspiracy participated in the violations alleged herein, or directed the violations alleged herein, or knew of the violations alleged herein and failed to act to prevent them. Each Defendant ratified, approved or acquiesced in the violations alleged herein.

114. As joint actors with joint obligations, each Defendant was and is responsible for the failures and omissions of the other.

115. Each Defendant acted individually, jointly and/or in concert with the other Defendants and others not named in violating Mr. Coley's rights.

116. Each Defendant acted with a deliberate indifference to, or reckless disregard for, or with negligence towards Mr. Coley's rights by fabricating inculpatory evidence, ignoring exculpatory evidence of which they were aware, and/or failing to conduct a constitutionally adequate investigation.

117. The individual Defendants named herein, in engaging in the acts described, were not acting in a prosecutorial capacity but in an investigatory, administrative or supervisory capacity.

118. As a direct and proximate result of the aforesaid acts, omissions, customs, practices, policies and decisions of the Defendants, Mr. Coley sustained the injurious events of his wrongful conviction, his sentencing to life imprisonment without parole, the denial of his multiple appeals, and numerous discrete bodily and

1 mental injuries throughout his imprisonment. Throughout Mr. Coley's wrongful
2 imprisonment, new and independent injuries were sustained for which the
3 Defendants are directly responsible, including but not limited to: Mr. Coley's
4 inability to grieve the loss of familial relations when his father died in 1988 and
5 when his mother died in 2011; the denial of all Mr. Coley's habeas corpus petitions
6 and appeals; and the destruction and/or suppression of evidence which could have
7 exonerated Mr. Coley and released him from his wrongful imprisonment.
8
9

10 119. As an actual and proximate result of 39 years of confinement in a prison
11 cell and exposure to prison conditions, Mr. Coley also contracted a wide range of
12 painful, embarrassing, humiliating, and potentially deadly diseases, including
13 Bowen's disease, seborrheic keratosis, pityriasis lichenoides chronica, focal
14 lymphoid aggregates, and perivascular lymphocytic infiltrate, resulting in constant
15 rashes, swelling and itching of his skin, oozing sores and lesions, scarring, and other
16 infirmities. The extreme mental distress and anguish brought about by Mr. Coley's
17 wrongful imprisonment caused him to suffer from high blood pressure and develop
18 ulcers. Mr. Coley also suffered numerous other bodily injuries while wrongfully
19 incarcerated which were further exacerbated by poor conditions and inadequate
20 medical treatment, including head injuries, burning of his arms and legs and infected
21 blisters, laceration of his scalp, a morbidly enlarged prostate, a meniscal tear,
22 glaucoma, food poisoning resulting in vomiting and diarrhea, and injuries to his face
23 and legs. Notably, while incarcerated, Mr. Coley contracted Hepatitis C. The poor
24
25
26
27
28

1 conditions of his imprisonment and the inadequate treatment provided caused Mr.
2 Coley's Hepatitis C to progress, developing into fibrosis of the liver and potentially
3 cancer.

4
5 120. While imprisoned, Mr. Coley also sustained assaults, batteries, and other
6 injuries which nearly killed him. For instance, towards the end of 1980, Mr. Coley
7 was severely beaten by a group of prison neo-Nazis for his refusal to join their
8 group. In another event, Mr. Coley's teeth were knocked loose, and he was not
9 given adequate dental care in prison. As a result, he lost many teeth and sustained
10 incredible physical pain and embarrassment to this day.
11

12
13 121. Whether or not Ventura County intended or expected an innocent man
14 would be convicted or sentenced to life or to inflict the injuries that Mr. Coley
15 sustained throughout his horrific ordeal (including during his arrest, prosecution,
16 conviction, sentencing, post-conviction filings and efforts to obtain DNA testing),
17 Ventura County—through its actions, errors, omissions, misfeasance, and
18 nonfeasance—is responsible for the great mental and physical pain, suffering,
19 anguish, fright, nervousness, anxiety, shock, humiliation, indignity, embarrassment,
20 harm to reputation, and apprehension which Mr. Coley sustained.
21

22
23 122. Throughout Mr. Coley's ordeal – including during his arrest,
24 prosecution, conviction, sentencing, post-conviction filings and efforts to obtain
25 DNA testing – Ventura County and the individual Defendants acted with deliberate
26 indifference, recklessness, or negligence in failing to provide Mr. Coley exculpatory
27
28

1 evidence or other evidence of his good character or that would actually or
2 potentially exonerate him, and instead deprived him of his rights and defamed him.

3 123. Due to the acts of the Defendants over decades, Mr. Coley has suffered
4 extreme and severe mental anguish as well as mental and physical pain and injury.
5 For such injuries, Mr. Coley will incur significant damages based on psychological
6 and medical care.
7

8 124. Additionally, as a result of Mr. Coley's wrongful incarceration, his long-
9 term cardiac health was compromised, he suffered and continues to suffer from
10 physical deformities and disabilities, and his worsening liver condition put him at
11 high risk of cirrhosis of the liver, resulting in a high risk for heart attacks, future
12 disability, cancer, and death.
13

14 125. As a further result of the conduct of each of these Defendants, Mr. Coley
15 has lost past and future earnings in an amount to be determined according to proof at
16 trial. Prior to his conviction, Mr. Coley was enlisted in the United States Navy and
17 then consistently employed after his honorable discharge. Due to his wrongful
18 incarceration, he lost all opportunities for educational and career advancement,
19 including the related loss of income for almost his entire adult life.
20

21 126. As a further result of the conduct of each of these Defendants, Mr. Coley
22 was deprived of familial relationships, including not being able to get married and
23 raise a family, care for his ailing parents, or attend their funerals.
24
25
26
27
28

1 127. These injuries and damages to Mr. Coley were foreseeable to Defendants
2 at the time of their acts and omissions.

3 128. Pursuant to California Government Code § 825(a), Defendants are
4 entitled to indemnification because their individual liability and acts of misconduct
5 arose from acts and/or omissions within the course and scope of their employment
6 with Ventura County.
7

8 129. The aforementioned acts of the Defendants were willful, wanton,
9 malicious, oppressive, in bad faith or done with reckless disregard or with deliberate
10 indifference or with gross negligence to Mr. Coley's constitutional rights, entitling
11 him to exemplary and punitive damages from each Defendant in an amount to be
12 proven at the trial of this matter.
13

14 130. By reason of the above described acts and omissions of Defendants, Mr.
15 Coley was required to retain an attorney to institute and prosecute the within action,
16 and to render legal assistance to Mr. Coley that he might vindicate the loss and
17 impairment of his rights, and by reason thereof, Mr. Coley requests payment by
18 Defendants of a reasonable sum for attorney's fees pursuant to 42 U.S.C. § 1988.
19

20
21
22 **XIV. FIRST CLAIM FOR RELIEF: 42 U.S.C. § 1983 CLAIM FOR**
23 **DEPRIVATION OF DUE PROCESS OF LAW AND VIOLATION**
24 **OF RIGHT TO A FAIR TRIAL UNDER THE FOURTEENTH**
25 **AMENDMENT**

26 131. Plaintiff realleges all the foregoing and any subsequent paragraphs
27 contained in the complaint, as if fully set forth herein.
28

1 132. Defendants, acting individually and in concert with each other and/or
2 with Klamser and others not named herein, fabricated false evidence, suppressed or
3 destroyed exculpatory evidence, failed to investigate in a manner that shocks the
4 conscience, and instead followed through with the unlawful prosecution of Mr.
5 Coley, thereby violating Mr. Coley's right not to be deprived of liberty without due
6 process of law.
7

8 133. The false evidence asserted herein is comprised of material omissions as
9 well as affirmatively false and misleading statements in police reports, documents,
10 and testimony prepared or given in connection with the investigation of the Wicht
11 murders.
12

13 134. Defendants' misconduct, acting individually and/or in concert with
14 Klamser and others not named herein, further includes but is not limited to the
15 planting of physical evidence.
16

17 135. Defendants' misconduct, acting individually and/or in concert with
18 Klamser and others not named herein, further includes but is not limited to
19 destroying exculpatory and potentially exculpatory evidence. On information and
20 belief, Defendants destroyed and/or failed to preserve evidence demonstrating the
21 time of the murder was 4:30 a.m. or earlier, when Mr. Coley had an indisputable
22 alibi, and failed to ensure the preservation of critical evidence establishing the
23 approximate time of death for the victims, including but not limited to body
24 temperate information.
25
26
27
28

1 136. Defendants' misconduct, acting individually and/or in concert with
2 Klamser and others not named herein, further includes but is not limited to reckless
3 investigatory misconduct such as disregarding clear information incriminating more
4 obvious suspects like Bowyer, Ireton, and Mobley, all of whom spent time with the
5 victims just prior to their murders and were connected to the murder scene via
6 forensic evidence including fingerprints, public hairs, and semen.
7

8
9 137. Each Defendant knew or should have known the evidence was false, and
10 the Defendants' conduct was intentional and knowing, or alternatively done with
11 deliberate indifference to and/or reckless disregard for Plaintiff's rights or for the
12 truth.
13

14 138. Defendants' misconduct did not cease with Mr. Coley's conviction but
15 continued through his exoneration, thereby prolonging his wrongful incarceration.
16

17 139. The constitutional source against using false evidence is primarily the
18 due process clause of the Fifth and Fourteenth Amendments, and Plaintiff's due
19 process rights were violated by the conduct alleged herein. Plaintiff brings this claim
20 as both a procedural and a substantive due process violation. To the extent that any
21 court were to conclude that the source of Plaintiff's right to not have false evidence
22 used against him is any constitutional source other than due process (such as the
23 Fourth Amendment), this claim is brought on those bases as well.
24
25

26 140. Defendants were each jointly and severally responsible to not use false
27 evidence against Mr. Coley. Each engaged in, knew or should have known of the
28

1 unconstitutional conduct alleged herein and failed to prevent it, which each had a
2 responsibility to do, and each ratified, approved or acquiesced in it.

3 141. As a direct and proximate result of Defendants' actions, Mr. Coley was
4
5 wrongly arrested, detained, prosecuted, convicted, and incarcerated for more than 39
6 years and suffered other grievous injuries and damages set forth above.

7 **XV. SECOND CLAIM FOR RELIEF: 42 U.S.C. § 1983 CIVIL**
8 **RIGHTS CONSPIRACY CLAIM**

9 142. Plaintiff realleges all the foregoing and any subsequent paragraphs
10 contained in the complaint, as if fully set forth herein.

11 143. Defendants and other not named herein, including Klamser, agreed
12 among themselves to act in concert to deprive Mr. Coley of his clearly established
13 constitutional rights as protected by the Fourth, Fifth, and Fourteenth Amendments,
14 including his right to be free from illegal seizure.

15 144. As described above, in furtherance of the conspiracy, Defendants
16 engaged in and facilitated numerous overt acts in furtherance of the conspiracy,
17 including but not limited to the following:

- 18 a. acting in concert to suggest, coerce, and/or fabricate statements regarding
19 the time of the crime from witnesses including but not limited to Glenn
20 Watkins and Debbie Villafrancas;
21
22 b. acting in concert to suggest, coerce, and/or fabricate an identification of
23 Mr. Coley's vehicle by witness Debbie Villafrancas;
24
25
26
27
28

1 c. acting in concert to present false evidence and suppress exculpatory
2 evidence from Glenn Watkins;

3 d. acting in concert to conceal, suppress, and/or destroy exculpatory
4 evidence, including physical and forensic evidence; and
5

6 e. acting in concert to plant or create false evidence.

7 145. As a direct and proximate result of Defendants' overt acts, Mr. Coley
8 was deprived of his constitutional rights; wrongly prosecuted, detained, and
9 incarcerated for over 39 years; and subjected to other grievous injuries and damages
10 set forth above.
11
12

13 **XVI. THIRD CLAIM FOR RELIEF: 42 U.S.C. § 1983 CLAIM**
14 **PURSUANT TO *BRADY*, *GARCIA*, AND *MOODY* FOR**
15 **FAILURE TO DISCLOSE MATERIAL EXCULPATORY**
16 **EVIDENCE**

17 146. Plaintiff realleges all the foregoing and any subsequent paragraphs
18 contained in the complaint, as if fully set forth herein.

19 147. Defendants, while acting under color of law, deprived Plaintiff of his
20 civil rights by violating his right to material exculpatory evidence and information
21 as required by *Brady v. Maryland*, 373 U.S. 83 (1963) (hereafter *Brady*
22 information), *People v. Garcia*, 17 Cal. App. 4th 1169 (1992) (hereafter *Garcia*
23 information), and *Tatum v. Moody*, 768 F.3d 806 (9th Cir. 2014) (hereafter *Moody*
24 information).
25
26
27
28

1 148. Pursuant to *Brady, Garcia, and Moody*, Defendants failed to disclose
2 exculpatory evidence to the prosecutors handling Mr. Coley's case and/or to turn
3 over exculpatory evidence to Mr. Coley's defense attorneys, the conviction court,
4 the sentencing court, the court of appeals or post-conviction court so that it could be
5 used to prove Mr. Coley innocence or secure his release from his wrongful
6 imprisonment, including exculpatory evidence that was known at the time of trial
7 and sentencing and new exculpatory evidence discovered after Mr. Coley's
8 wrongful conviction and the event of his sentencing.

9 149. The actions of each Defendant, acting individually and/or in concert, in
10 withholding evidence were done with deliberate indifference to or reckless disregard
11 for Plaintiff's rights or for the truth.

12 150. The constitutional source of the obligation to provide *Brady, Garcia,*
13 and *Moody* information is primarily the due process clause of the Fifth and
14 Fourteenth Amendments, and Plaintiff's due process rights were violated by the
15 conduct alleged herein. Plaintiff brings this claim as both a procedural and a
16 substantive due process violation. To the extent that any court were to conclude that
17 the source of Plaintiff's right to such exculpatory information is any constitutional
18 source other than due process (such as the Fourth Amendment), this claim is brought
19 on those bases as well.

20 151. Defendants were each jointly and severally responsible to provide
21 *Brady, Garcia, and Moody* information to the prosecutors handling Mr. Coley's case
22
23
24
25
26
27
28

1 so that it could in turn be provided to Mr. Coley's defense team. Each engaged in,
2 knew or should have known of the unconstitutional conduct alleged herein and
3 failed to prevent it, which each had a responsibility to do, and each ratified,
4 approved or acquiesced in it.

5
6 152. As a direct and proximate result of Defendants' conduct, Mr. Coley was
7 wrongly incarcerated for over 39 years and subjected to other grievous injuries and
8 damages set forth above.
9

10 **XVII. FOURTH CLAIM FOR RELIEF: 42 U.S.C. § 1983 CLAIM FOR**
11 **POST-TRIAL SUPPRESSION OF EXCULPATORY EVIDENCE**
12 **(Against the Ventura County District Attorney's Office, the**
13 **Ventura County Sheriff's Offices, and employees thereof)**

14 153. Plaintiff realleges all the foregoing and any subsequent paragraphs
15 contained in the complaint, as if fully set forth herein.

16 154. From 2003-2016, Defendants negligently or with reckless indifference
17 withheld material exculpatory evidence, manufactured false reports about evidence
18 in their possession, and misrepresented to the Court and to Mr. Coley that any
19 exculpatory physical evidence relating to his case had been destroyed and, further,
20 the District Attorney's original file had been destroyed.
21

22 155. Mr. Coley had a liberty interest in proving his innocence, including
23 through newly discovered exculpatory evidence.
24

25 156. Defendants misconduct deprived Mr. Coley of powerful new evidence of
26 innocence under Cal. Pen. Code §1405 that he did not have until its belated
27
28

1 disclosure in 2017. With that critical evidence, an earlier motion for post-conviction
2 relief would have been successful and freed Mr. Coley from prison.

3 157. Defendants' misconduct deprived Mr. Coley of his liberty without due
4 process of law and deprived Mr. Coley access to the courts in violation of the
5 Fourteenth Amendment to the United States Constitution.
6

7 158. As a direct result of Defendants' misconduct, Mr. Coley's incarceration
8 was wrongfully extended, and Mr. Coley suffered physical, emotional, and
9 pecuniary damages.
10

11 **XVIII. FIFTH CLAIM FOR RELIEF: 42 U.S.C. § 1983 SUPERVISORY**
12 **LIABILITY CLAIM**
13 **(Against Ventura County, Maxwell, Jalaty, and John Does 1-10)**

14 159. Plaintiff realleges all the foregoing and any subsequent paragraphs
15 contained in the complaint, as if fully set forth herein.
16

17 160. Defendants Deputy District Attorney Maxwell of the Ventura County
18 District Attorney's Office, Sheriff Al Jalaty of the Ventura County Sheriff's
19 Department, and Does 1-10, while acting under color of law, knew, or in the
20 exercise of reasonable care, should have known of a history and propensity and
21 pattern at the time of this incident for Defendant Klamser to engage in the
22 unconstitutional conduct enumerated above, including fabricating evidence,
23 withholding exculpatory evidence, manipulating witnesses and otherwise violating
24 the rights of criminal suspects of Defendants. Defendants took no action to prevent
25 this unconstitutional conduct.
26
27
28

1 161. Defendants, while acting under color of law, failed to provide reasonable
2 security, monitoring, training and supervision of their employees, in particular of
3 their investigators and criminologists in proper investigative techniques and the
4 constitutional requirements for such investigations.
5

6 162. Defendants' disregard of this knowledge or failure to adequately
7 investigate and discover and correct such acts or failures to act was a moving force
8 which caused the violation of Mr. Coley's constitutional rights.
9

10 163. Defendants knew, or in the exercise of reasonable care should have
11 known, of a pattern or practice of unconstitutional violations, or the existence of
12 facts which create the potential of unconstitutional acts, and these Defendants
13 (including Ventura County) had a duty to train and instruct their subordinates to
14 prevent similar acts but failed to take steps to properly train, supervise, investigate
15 or instruct their agents or employees.
16
17

18 164. As a direct and proximate result of the conduct of Ventura County,
19 Maxwell, Jalaty, and Does 1-10, as described above, Mr. Coley suffered
20 constitutional deprivations and grievous personal injuries and damages described
21 above.
22

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **XIX. SIXTH CLAIM FOR RELIEF: 42 U.S.C. §1983 *MONELL* CLAIM**
2 **FOR VIOLATIONS ARISING FROM A POLICY/CUSTOM OF**
3 **FAILING TO PRESERVE AND DISCLOSE EXCULPATORY**
4 **EVIDENCE, FABRICATING EVIDENCE, FAILING TO TRAIN**
5 **AND SUPERVISE REGARDING THE PRESERVATION AND**
6 **DISCLOSURE OF EVIDENCE IN HOMICIDE**
7 **INVESTIGATIONS**
8 **(Against Defendant Ventura County)**

9 165. Plaintiff realleges all the foregoing and any subsequent paragraphs
10 contained in the complaint, as if fully set forth herein.

11 166. Plaintiff is informed and believes and thereon alleges that, during all or
12 portions of the period relevant to this case (1978 to 2017), Defendant County of
13 Ventura, by and through the Ventura County District Attorney's Office, with
14 deliberate indifference, and conscious and reckless disregard to the safety, security
15 and constitutional and statutory rights of criminal suspects and defendants, including
16 Plaintiff, had a) no established or clear administrative system in place, b) no stated,
17 written or adequate policies, and c) no or inadequate training and supervisions
18 regarding, *inter alia*, the following issues:

19 a. Ensuring that any police department or police officers with which
20 the District Attorney's Office was working provided all exculpatory evidence
21 gathered during an investigation of a case presented to the District Attorney's
22 Office for prosecution, as numerous cases over the years made clear was its
23 obligation.

1 b. Ensuring that any police department or police officers with which
2 the District Attorney's Office was working provided its full investigative
3 material and that material is actually reviewed by an appropriate Deputy DA.
4

5 c. Ensuring that exculpatory evidence was not buried in files
6 provided to the trial attorney handling the case by the police department or
7 police officers with which the District Attorney's Office was working, and/or
8 by members of its Office.
9

10 d. Ensuring that the police department or police officers with which
11 the District Attorney's Office was working provided to the trial attorney
12 prosecuting that case full and complete reports of any benefits (including but
13 not limited to benefits in the form of monetary or other pecuniary benefits and
14 leniency in other charges) provided to any witness, and/or that such
15 information was disclosed to the defense.
16
17

18 e. Ensuring that any benefits or monies paid to or for the benefit of
19 witnesses was both known to the relevant people in the District Attorney's
20 Office, including the attorney assigned to try the case, and/or disclosed to the
21 defense.
22

23 f. Ensuring that false evidence was not being presented or relied
24 upon by Deputy District Attorneys in prosecuting cases.
25

26 g. Ensuring that the key police reports and other key case documents
27 provided full and complete descriptions of witness interactions and called
28

1 attention to any irregularities, deviations from policy or evidence favorable to
2 the defense.

3 h. Ensuring that exculpatory evidence learned or discovered after
4 trial and conviction (including between trial and sentencing and after
5 sentencing) was disclosed to defendants and their counsel.
6

7 i. Ensuring that exculpatory information known to Deputy District
8 Attorneys would be identified, organized and maintained for production to the
9 California Attorney General's Office for litigation in subsequent post-trial
10 habeas and appellate proceedings.
11

12 j. Establishing procedures or systems to track or identify known
13 false witness statements or other known facts that would make them
14 unsuitable as witnesses in other cases or would be exculpatory evidence
15 undermining their credibility if they were used as witnesses.
16

17 k. Ensuring that procedures were in place to ensure that the rights of
18 convicted individuals to test physical evidence for DNA evidence pursuant to
19 Cal. Pen. Code §1405 existed and were properly implemented.
20

21 l. Failing to discipline personnel involved in dishonesty, particularly
22 in enabling, encouraging, condoning or presenting false testimony that was
23 known or should have been known to be false or that was utilized with a
24 reckless disregard for, or deliberate indifference towards, the truth and the
25 rights of the accused.
26
27
28

1 m. Establishing procedures so all exculpatory/impeachment evidence
2 discovered by law enforcement or the DA after the preliminary hearing stage
3 is provided to the defense.
4

5 n. Establishing procedures so all exculpatory/impeachment evidence
6 discovered by law enforcement or the DA after a conviction is provided to the
7 defense.
8

9 167. Defendant County of Ventura, by and through the Ventura District
10 Attorney's Office, had the habit, custom, pattern and practice, during all or parts of
11 the relevant time period (1978 to the present) of:
12

13 a. Failing to identify or disclose exculpatory evidence or false
14 evidence, particularly regarding Detective Klamser's conduct to withhold
15 exculpatory evidence and to falsify evidence, as previously alleged.
16

17 b. Failing to locate physical evidence for DNA testing to which
18 convicted inmates were entitled under Cal. Pen. Code §1405.
19

20 c. Entering into benefits agreements with key witnesses without
21 disclosing them to the defense, and/or failing to identify and disclose such
22 agreements.
23

24 d. Improperly influencing eyewitness identifications by manipulation
25 of witness or providing undisclosed benefits to them.
26

27 168. The customs, policies, practices, failures, actions and inactions of the
28 Ventura District Attorney's Office elaborated above were or should have been

1 known to the policy makers responsible for the Ventura District Attorney's Office
2 and occurred with deliberate indifference to either the recurring constitutional
3 violations elaborated above, and/or to the strong likelihood that constitutional rights
4 would be violated as a result of failing to adopt and implement systems, policies,
5 training, supervision or discipline in areas where the need for such things to occur
6 was obvious. Given the long and recurring history elaborated above, the Ventura
7 District Attorney's Office and its policy makers were on notice of these deficiencies
8 and failures.

11 169. The customs, policies, practices, failures, actions and inactions of the
12 Ventura District Attorney's Office elaborated above were so closely related to the
13 deprivation of Mr. Coley's rights as to be a moving force that caused the
14 constitutional violations alleged herein.

17 170. As a direct and proximate result of Defendant County of Ventura's acts
18 and omissions, condoning, encouraging, ratifying and deliberately ignoring the
19 pattern and practice of district attorney's acts and omissions alleged above, Mr.
20 Coley sustained injury and damage to be proved at trial.

22 **XX. SEVENTH CLAIM FOR RELIEF: NEGLIGENT**
23 **SUPPRESSION/WITHHOLDING OF EVIDENCE**
24 **(Against the Ventura County District Attorney's Office, the**
25 **Ventura County Sheriff's Offices, and employees thereof)**

26 171. Plaintiff realleges all the foregoing and any subsequent paragraphs
27 contained in the complaint, as if fully set forth herein.

1 172. Defendants had ongoing legal, constitutional, and statutory duties that
2 obligated them to preserve, not destroy, and turn over evidence to Mr. Coley,
3 including DNA evidence requested by Mr. Coley. Under California State law, in
4 particular, Ventura County violated California Government Code § 815.6 through its
5 patently negligent “search” for the physical evidence Mr. Coley requested for DNA
6 testing. Under § 815.6, an entity has direct liability where it is under a mandatory
7 duty imposed by an enactment that is designed to protect against the risk of a
8 particular kind of injury and it fails to discharge that duty with reasonable diligence.
9

10 173. Defendants had explicit notice of the numerous motions, post-conviction
11 petitions, and requests for information and physical evidence made by Mr. Coley
12 and others. By taking no actions despite the ever-growing mountain of evidence that
13 proved that Mr. Coley was actually innocent and was being wrongfully imprisoned,
14 Ventura County is liable for gross negligence. Ventura County is likewise liable for
15 negligence or gross negligence for its misrepresentations to Mr. Coley that there was
16 no DNA evidence available to retest. Ventura County indisputably failed to exercise
17 reasonable diligence in its search for the evidence requested by Mr. Coley.
18

19 174. As a direct and proximate cause of Defendants recurring failure to come
20 forward with exonerating evidence in their possession, Mr. Coley suffered exposure
21 to prison conditions and avoidable physical, mental, and pecuniary injuries, for
22 which Ventura County is liable.
23
24
25
26
27
28

**XXI. EIGHTH CLAIM FOR RELIEF: CLAIM UNDER CALIFORNIA
CODE § 815.2 FOR RESPONDEAT SUPERIOR AND
VICARIOUS LIABILITY INCLUDING FOR NEGLIGENT
SUPERVISION AND TRAINING
(Against Defendant Ventura County)**

175. Plaintiff realleges all the foregoing and any subsequent paragraphs contained in the complaint, as if fully set forth herein.

176. California state law provides that public entities are directed to pay any tort judgment for any claim or action against an employee of the public entity for an injury arising out of an act or omission occurring within the scope of his or her employment.

177. Defendants are or were employees of Ventura County, and acted within the scope of their employment in committing the acts and omissions described herein.

178. Supervisory Defendants named herein, and other supervisory personnel whose identities are not currently known, failed to properly supervise and train employees in (a) ensuring that exculpatory evidence is provided and disclosed to those facing criminal charges, (b) in ensuring that false evidence is not used in any investigation or prosecution, (c) in locating evidence to which individuals are entitled for purposes of DNA testing under Cal. Pen. Code §1405, and (d) otherwise complying with their responsibilities as set forth in the Seventh Claim for Relief. Defendant Ventura County has respondeat superior liability for all such failures to supervise and train.

1 179. Defendant Ventura County is legally obligated to pay any judgment
2 entered against Defendant Officers.

3 **XXII. NINTH CLAIM FOR RELIEF: CLAIM UNDER CALIFORNIA**
4 **CODE § 52.1 AGAINST INDIVIDUAL DEFENDANTS**

5 180. Plaintiff realleges all the foregoing and any subsequent paragraphs
6 contained in the complaint, as if fully set forth herein.
7

8 181. Defendants interfered or attempted to interfere with Mr. Coley's rights
9 secured by the United States and California constitution and laws, including through
10 the used of threats, intimidation, or coercion.
11

12 182. As a direct and proximate cause of Defendants recurring failure to come
13 forward with exonerating evidence in their possession, Mr. Coley suffered exposure
14 to prison conditions and avoidable physical, mental, and pecuniary injuries, for
15 which Ventura County is liable.
16

17 **XXIII. TENTH CLAIM FOR RELIEF: CALIFORNIA GOVERNMENT**
18 **CODE 835.4 ARTICLE 2 CLAIM**
19 **(Against Ventura County)**

20 183. Plaintiff realleges all the foregoing and any subsequent paragraphs
21 contained in the complaint, as if fully set forth herein.
22

23 184. Through its policies, practices, and procedures and failures to supervise
24 and train its officers, Ventura County created a dangerous condition for its residents,
25 including the dangerous condition where innocent residents like Mr. Coley were
26 subject to unlawful and unconstitutional investigations, resulting in wrongful
27
28

1 convictions and wrongful life sentences, the deprivation of liberty, violations of
2 their civil rights, and physical and mental harm, including bodily injuries sustained
3 where innocent people were locked up with people who wanted to and did cause
4 them harm.
5

6 185. Ventura County is liable for the injuries sustained by Mr. Coley
7 because they were injuries that were reasonably foreseeable as a result of dangerous
8 conditions that Simi Valley created through its negligence and mismanagement of
9 its police department.
10

11 186. Ventura County is also liable for the injuries sustained by Mr. Coley
12 because the injuries were the result of a dangerous condition created by the
13 negligent or wrongful acts or omissions of employees of Ventura County acting
14 within the scope of their employment.
15
16

17 187. Ventura County breached its affirmative duty to protect Mr. Coley from
18 the conduct of its investigators and police which actually and proximately caused
19 Mr. Coley's injuries and damages.
20

21 **XXIV. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, Craig Coley requests relief on his own behalf as
23 follows, and according to proof, against each Defendant:
24

- 25 1. General and compensatory damages in an amount according to proof;
- 26 2. Special damages in an amount according to proof;
- 27
- 28

1 3. Exemplary and punitive damages against each Defendant in an amount
2 according to proof that will deter such conduct by Defendants in the future;

3 4. Costs of suit, including attorneys' fees, under 42 U.S.C. §1988; and,
4

5 5. Such other relief as may be warranted or as is just and proper.
6

7 DATED: December 14, 2018

Respectfully submitted,

8 KAYE, McLANE, BEDNARSKI &
9 LITT, LLP

10 BARRETT S. LITT
11 RONALD O. KAYE
12 LINDSAY BATTLES

13 By: / s / Barrett S. Litt
14 Attorneys for Plaintiff
15 Craig Coley

16 NICK BRUSTIN
17 ANNA BENVENUTTI HOFFMANN
18 KATIE MCCARTHY

19 By: / s / Nick Brustin
20 Attorneys for Plaintiff
21 Craig Coley
22
23
24
25
26
27
28

JURY DEMAND

Trial by jury of all issues is demanded.

DATED: December 14, 2018

Respectfully submitted,

LITT, LLP

BARRETT S. LITT
RONALD O. KAYE
LINDSAY BATTLES

By: / s / Barrett S. Litt
Attorneys for Plaintiff
Craig Coley

NICK BRUSTIN
ANNA BENVENUTTI HOFFMANN
KATIE MCCARTHY

By: / s / Nick Brustin
Attorneys for Plaintiff
Craig Coley